

Assembly Bill No. 188

CHAPTER 347

An act to amend Sections 3100, 3101, 3103, 3104, 3106, 3108, 3110, 3201, 3203, 3206, 3303, 3304, 3305, 3307, and 3308 of, and to repeal Sections 3105, 3306, and 3309 of, the Elections Code, relating to absentee voters.

[Approved by Governor September 11, 2003. Filed
with Secretary of State September 12, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

AB 188, Maze. Absentee voting.

Under existing law special absentee voters, defined as members of the armed forces and their spouses and dependents and overseas citizens of the United States, are permitted to apply for absent voter's ballots.

This bill would provide that when voters who qualify as special absentee voters apply for absent voter's ballots, their applications are deemed to be affidavits of registration and applications for permanent absentee voter status and these voters will have absent voter's ballots sent to them for future elections. The bill would further provide that special absentee voters who receive absent voter's ballots may write in the name of any candidate who has qualified to have his or her name placed on the ballot or qualified as a write-in ballot at the time of the election, and the bill would make other minor changes in the procedures for processing applications for absent voter's ballots by special absentee voters. Because this bill would increase the duties of local elected officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would incorporate additional changes in Section 3206 of the Elections Code proposed by AB 593 that would become operative only if AB 593 and this bill are both chaptered and become effective on or before January 1, 2004, and this bill is chaptered last.

This bill would also incorporate additional changes in Section 3206 of the Elections Code proposed by AB 1681 that would become operative only if AB 1681 and this bill are both chaptered and become effective on or before January 1, 2004, and this bill is chaptered last.

The people of the State of California do enact as follows:

SECTION 1. Section 3100 of the Elections Code is amended to read:

3100. When a voter who qualifies as a special absentee voter pursuant to subdivision (b) of Section 300 applies for an absent voter's ballot, the application shall be deemed to be an affidavit of registration and an application for permanent absentee voter status, pursuant to Chapter 3 (commencing with Section 3200). The application must be completed by the voter and must contain the voter's name, residence address for voting purposes, the address to which the ballot is to be sent, the voter's political party for a primary election, and the voter's signature.

If the applicant is not a resident of the county to which he or she has applied, the elections official receiving the application shall forward it immediately to the proper county.

SEC. 2. Section 3101 of the Elections Code is amended to read:

3101. Upon timely receipt of the application for an absentee ballot, the elections official shall examine the application to ascertain that it is properly executed in accordance with this code. If the elections official is satisfied of this fact, the applicant shall be deemed a duly registered voter as of the date appearing on the application to the same extent and with the same effect as though he or she had registered in proper time prior to the election.

SEC. 3. Section 3103 of the Elections Code is amended to read:

3103. (a) Any application made pursuant to this chapter that is received by the elections official prior to the 60th day before the election shall be kept and processed on or after the 60th day before the election.

(b) The elections official shall immediately send the voter a ballot in a form prescribed and provided by the Secretary of State. The elections official shall send with the ballot a list of all candidates who have qualified for the ballot by the 60th day before the election and a list of all measures that are to be submitted to the voters and on which the voter is qualified to vote. The voter shall be entitled to write in the name of any specific candidate seeking nomination or election to any office listed on the ballot.

(c) Notwithstanding Section 15341 or any other provision of law, any name written upon a ballot for a particular office pursuant to subdivision



(b) shall be counted for the office or nomination, providing the candidate whose name has been written on the ballot has, as of the date of the election, qualified to have his or her name placed on the ballot for the office, or has qualified as a write-in candidate for the office.

(d) The elections official shall receive and canvass special absentee voter ballots described in this section under the same procedure as absent voter ballots, insofar as that procedure is not inconsistent with this section.

(e) In the event that a voter executes a special absentee ballot pursuant to this section and an application for an absentee ballot pursuant to Section 3101, the elections official shall reject the voted ballot previously cast, cancel the voter's permanent absent voter status, and process the application in accordance with Chapter 1 (commencing with Section 3000).

(f) Notwithstanding any other provision of law, a special absentee voter who qualifies pursuant to this section may, by facsimile transmission, register to vote and apply for an absent voter's ballot. Upon request, the elections official may send to the qualified special absentee voter either by mail, facsimile, or electronic transmission the special absentee ballot or, if available, an absent voter's ballot pursuant to Chapter 1 (commencing with Section 3000).

SEC. 4. Section 3104 of the Elections Code is amended to read:

3104. Any absentee voter ballot application by a qualified special absentee voter shall also be deemed an affidavit of voter registration and an application for permanent absent voter status.

SEC. 5. Section 3105 of the Elections Code is repealed.

SEC. 6. Section 3106 of the Elections Code is amended to read:

3106. When the application is received by an elections official, other than a county elections official, the elections official receiving it shall, after the election, transmit it to the county elections official who, if the application is not subject to rejection, shall file the original. If an application is rejected, it shall be returned to the applicant with the reason for rejection endorsed on it, together with a new blank application.

SEC. 7. Section 3108 of the Elections Code is amended to read:

3108. If any special absentee voter to whom an absent voter's ballot has been mailed and which ballot has not been voted by him or her returns to the county in which he or she is registered on or before election day, he or she may apply for a second absentee ballot pursuant to Section 3014. The elections official shall require him or her to sign an authorization to cancel the absent voter's ballot previously issued when it is returned to the county elections official. The elections official shall then issue another absent ballot to the voter, or the elections official shall



certify to the precinct board that the voter is eligible to vote in the precinct polling place of his or her residence.

SEC. 8. Section 3110 of the Elections Code is amended to read:

3110. If a special absentee voter is unable to appear at his or her polling place because of being recalled to service after the final day for making application for an absent voter's ballot, but before 5 p.m. on the day before the day of election, he or she may appear before the elections official and make application for an absent voter's ballot. The elections official shall deliver to him or her an absent voter's ballot which may be voted in the elections official's office or voted outside the elections official's office on or before the close of the polls on the day of election and returned as are other absent voter's ballots.

SEC. 9. Section 3201 of the Elections Code is amended to read:

3201. Any voter may apply for permanent absent voter status. Application for permanent absent voter status shall be made in accordance with Section 3001, 3100, or 3304. The voter shall complete an application, which shall be available from the county elections official, and which shall contain all of the following:

- (a) The applicant's name at length.
- (b) The applicant's residence address.
- (c) The address where ballot is to be mailed, if different from the place of residence.
- (d) The signature of the applicant.

SEC. 10. Section 3203 of the Elections Code is amended to read:

3203. (a) Upon receipt of an application for permanent absent voter status, the county elections official shall process the application in the same manner as an application for a regular absent voter's ballot, or, in the case of an application made pursuant to Section 3100 or 3304, in the same manner as an application for a special absent voter ballot or overseas ballot.

(b) In addition to processing applications in accordance with Chapter 1 (commencing with Section 3000), if it is determined that the applicant is a registered voter, the county elections official shall do the following:

- (1) Place the voter's name upon a list of those to whom an absentee ballot is sent each time there is an election within their precinct.
- (2) Include in all absentee ballot mailings to the voter an explanation of the absentee voting procedure and an explanation of Section 3206.
- (3) Maintain a copy of the absentee ballot voter list on file open to the public inspection for election and governmental purposes.

SEC. 11. Section 3206 of the Elections Code is amended to read:

3206. A voter whose name appears on the permanent absent voter list shall remain on the list and shall be mailed an absentee ballot for each election conducted within his or her precinct for which he or she is



eligible to vote. If the voter fails to return an executed absent voter ballot for any statewide direct primary or general election in accordance with Section 3017 the voter's name shall be deleted from the list.

SEC. 11.5. Section 3206 of the Elections Code is amended to read:

3206. A voter whose name appears on the permanent absent voter list shall remain on the list and shall be mailed an absentee ballot for each election conducted within his or her precinct for which he or she is eligible to vote. If the voter fails to return an executed absent voter ballot for any statewide general election in accordance with Section 3017 the voter's name shall be deleted from the list.

SEC. 11.6. Section 3206 of the Elections Code is amended to read:

3206. A voter whose name appears on the permanent absent voter list shall remain on the list and shall be mailed an absentee ballot for each election conducted within his or her precinct for which he or she is eligible to vote. If the voter fails to return an executed absent voter ballot for any statewide general election in accordance with Section 3017 the voter's name shall be deleted from the list.

SEC. 11.7. Section 3206 of the Elections Code is amended to read:

3206. A voter whose name appears on the permanent absent voter list shall remain on the list and shall be mailed an absentee ballot for each election conducted within his or her precinct for which he or she is eligible to vote. If the voter fails to return an executed absent voter ballot for any statewide general election in accordance with Section 3017 the voter's name shall be deleted from the list.

SEC. 12. Section 3303 of the Elections Code is amended to read:

3303. Any person described in Section 3302 who desires to register and vote under this chapter shall apply in writing to the elections official of the county in which the person was last domiciled prior to departure from the United States. When an overseas voter as described in Section 3302 applies for an absent voter's ballot, the application shall be deemed an affidavit of registration and an application for permanent absent voter status, pursuant to Chapter 3 (commencing with Section 3200).

SEC. 13. Section 3304 of the Elections Code is amended to read:

3304. (a) Any application made pursuant to this chapter that is received by the elections official prior to the 60th day before the election shall be kept and processed on or after the 60th day before the election.

(b) The elections official shall send with the ballot a list of all candidates who have qualified for the ballot by the 60th day before the election and for whom the voter is qualified to vote. The voter shall be entitled to write in the name of any specific candidate seeking the nomination or election to any office listed on the ballot.

(c) Notwithstanding Section 15341 or any other provision of law, any name written upon a ballot for a particular office pursuant to subdivision



(b) shall be counted for the office or nomination, providing the candidate whose name is written on the ballot has, as of the date of the election, qualified to have his or her name placed on the ballot for the office, or has qualified as a write-in candidate for the office.

(d) The elections official shall receive and canvass the absent voter ballots described in this section under the same procedure as other absent voter ballots, insofar as that procedure is not inconsistent with this section.

SEC. 14. Section 3305 of the Elections Code is amended to read:

3305. Upon receipt of an application for registration and an absent voter ballot by a person who meets the requirements of Section 3302 the county elections official shall determine the following:

(a) That the last domicile of the applicant in the United States was in the county to which the person has applied. If the last domicile of the applicant in the United States was in another county, the elections official shall forward the application to that county.

(b) That the applicant is not currently registered. If the applicant is registered as a resident of the county, the elections official shall cancel the affidavit of registration.

SEC. 15. Section 3306 of the Elections Code is repealed.

SEC. 16. Section 3307 of the Elections Code is amended to read:

3307. (a) As soon as possible after the 60th day before the federal election, the county elections official shall mail or deliver a ballot to each person who has requested registration as an overseas voter since the last regularly scheduled federal election.

(b) The overseas voter shall be informed of the following:

(1) That the affidavit must be correctly completed and returned with the ballot in order for the vote to be tallied.

(2) That the voter's registration is valid, that the voter has permanent absentee voter status, and that the ballots for future elections will be sent to the voter at the mailing address provided by the voter.

(3) The provisions of Section 3206.

(c) Absent voter ballots mailed or delivered pursuant to this section shall be modified pursuant to regulations adopted by the Secretary of State so as to show only those offices for which the overseas resident is entitled to vote.

SEC. 17. Section 3308 of the Elections Code is amended to read:

3308. Upon timely receipt of the application for absentee ballot, the county elections official shall examine the application to ascertain that it is properly executed in accordance with this code. If the county elections official is satisfied of this fact, the applicant shall be deemed a duly registered voter as of the date appearing on the application to the



same extent and with the same effect as though he or she had registered in proper time prior to the election.

SEC. 18. Section 3309 of the Elections Code is repealed.

SEC. 19. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 20. (a) Section 11.5 of this bill incorporates amendments to Section 3206 of the Elections Code proposed by both this bill and AB 593. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2004, (2) each bill amends Section 3206 of the Elections Code, and (3) AB 1681 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 593, in which case Sections 11, 11.6, and 11.7 of this bill shall not become operative.

(b) Section 11.6 of this bill incorporates amendments to Section 3206 of the Elections Code proposed by both this bill and AB 1681. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2004, (2) each bill amends Section 3206 of the Elections Code, (3) AB 593 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1681, in which case Sections 11, 11.5, and 11.7 of this bill shall not become operative.

(c) Section 11.7 of this bill incorporates amendments to Section 3206 of the Elections Code proposed by this bill, AB 593, and AB 1681. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2004, (2) all three bills amend Section 3206 of the Elections Code, and (3) this bill is enacted after AB 593 and AB 1681, in which case Sections 11, 11.5, and 11.6 of this bill shall not become operative.

